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09/718,885	11/21/2000	Wilfried Baatz	RAMI115985	2343

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EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/15/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/718,885

Applicant(s)

BAATZ, WILFRIED

Examiner

Tam Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 9-19-03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 and 16-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-6, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 7-11 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 10 and 24 are objected to because of the following informalities:

Claim 10, line 2, delete "the wheel base of the bicycle frame." and insert --to the bicycle frame's wheel base.--

Claim 24, line 3, delete "the bicycle frame." and insert --a bicycle--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 recites the limitation "the transmission" in line 4, "the flexible drive element" in lines 7 and 8, and "the bicycle frame" in 10. There is insufficient antecedent basis for this limitation in the claim. The claim has merely disclosed a support frame for supporting a bicycle frame. A bicycle frame having a transmission that includes a flexible drive element has not been positively recited as being part of the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Kim (4,958,831).

3. As to claim 6, Kim discloses an exercise training apparatus comprising a support frame (R-5) adapted to be connected to a bicycle frame (950) having a flexible drive element (995) and a resistance generating unit (710) that is coupled to the support frame wherein the support frame includes a tensioning device (944) for selectively tensioning the flexible drive element (see Fig. 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harnden et al. (5,480,366) in view of Hu (5,382,208).

4. As to claims 1, 4 and 5, Harnden et al. disclose an exercise training apparatus comprising a support frame having a rear mounting assembly (44), a bicycle frame (12) having forks, a flywheel rotatably coupled to the rear mounting assembly between a rear fork, a transmission system including a driven member (22) coupled to a flywheel and a user operable drive assembly (14, 20) connected to the driven member via a flexible drive element (18) wherein the driven member and the flywheel are substantially coaxial

(see Figs. 1-3 & Col. 60-63). Harnden et al. do not disclose that the support frame includes a front support member capable of detachably receiving front forks of the bicycle frame or a magnetic field generation source coupled to the rear mounting assembly for a portion of the flywheel to pass there through. Hu discloses a similar stationary exercise device having a frame that includes a front support member (21) capable of detachably receiving front forks of a bicycle frame and a magnetic field generating source (42) (see Fig. 1 & Col. 2, lines 30-32). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to extend Harnden's support frame to include a front support member capable of receiving a bicycle's front forks because such an extended support member would provide for greater support and stability of the bicycle and such frames having front and rear fork supports are well known in the exercise art. Additionally, it would have been obvious to a person of ordinary skill in the art to provide any of a plurality of means for generating resistance on Harnden's flywheel including having a source that generates a magnetic field that the flywheel passes/rotates there through since the practice of using magnetic fields to provide adjustable resistance on flywheels is well known in the exercise art.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harnden et al. in view of Hu and in further view of Baatz (5,656,001).

5. As to claim 2, Harnden et al. and Hu disclose a modified exercise device as described above (see discussion of claim 1). Harnden does not disclose that a portion of the flywheel is a non-magnetic, electrically conductive ring. Baatz discloses a similar stationary exercise device that includes a flywheel comprising a non-magnetic,

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electrically conductive disk (see ABSTRACT). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute Harnden's resistance flywheel with Baatz's resistance flywheel since both flywheels and the corresponding resistance components are functionally equivalent in the exercise art in providing adjustable resistance.

6. As to claim 3, Harnden et al., Hu and Baatz disclose a modified exercise device as described above (see discussion of claim 2). Baatz does not disclose that the flywheel includes a plurality of radial segments that form the disk/ring. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to make the disk/ring out of a single or multiple components to facilitate the transports of the parts (i.e. a disk composed of smaller wedges would be more efficient to ship). Furthermore, one-piece construction, in place of separate elements fastened together, is a design consideration within the skill of the art. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bursik (5,042,795) in view of Kim.

7. As to claim 22, Bursik discloses a support frame (34) for supporting a bicycle frame (F) having a flexible drive (18a), the support frame further includes a wheel base adjustment mechanism (35) and a resistance unit (40) coupled to the frame (see Fig. 1). Bursik does not disclose a chain-tensioning device. Kim discloses a similar stationary exercise device that includes chain-tensioning device (944) (see Fig. 3). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add a

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chain tensioning device to Bursik's frame to maintain the flexible drive in tension so as to properly maintain the transmission when the wheel base of the frame is adjusted to support bicycles of various sizes.

***Allowable Subject Matter***

8. Claims 15 and 23 allowed.
9. Claim 24 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.
10. Claims 7-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoffenberg et al. '937 and Shiba '379 are representative of the prior art that discloses exercise devices having frames that include supports for detachably receiving both front and rear forks of generic bicycles.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 703-305-0784. The examiner can normally be reached on M-F, 9-5.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 9, 2004

  
STEPHEN R. CROW  
PRIMARY EXAMINER  
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